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# CARRANZA'S NEW INDUSTRIAL POLICY

BY ROLAND G. USHER

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A DECREE issued by Carranza on September 14, 1916, in regard to mining concessions in Mexico may well mark a new point of departure of the utmost significance in the relations between the two countries. The substance of the decree, as quoted in the *Mining and Scientific Press*, declares that all mining concessions must be worked continuously under penalty of forfeiture, and shall be liable to forfeiture if work be suspended for longer than two continuous months, or for more than three months in the aggregate during each year. Any grantee, believing that he possesses a valid reason for the suspension of work without incurring the penalty of forfeiture, may present his reason to the Secretary of Fomento. The decree explicitly states that such pleas will be accepted only when "well founded and proven," and that the period during which work may allowably be discontinued will not then exceed three months, unless a cause should be "proven" to exist rendering operation "absolutely impossible." The Secretary of Fomento further shall designate for all concessions, new and old, "the number of laborers which as a minimum must be employed thereon." The old concessions "must employ the same number of men that have been or were employed at the time operations were suspended," though a right is reserved to the Secretary to alter this number. Further, whenever the Secretary of Fomento forfeits a concession, he shall immediately call the attention of the Secretary of Hacienda to the fact, who shall then decide "whether the annulled concession shall thenceforward be opened to public denouncement or be worked and operated under the auspices of the Nation." The decree was to go into effect from the moment of publication. There were practically no other qualifications.

The ostensible purpose of this new law is the entirely laudable object of preventing foreigners from obtaining mining concessions, holding them for years for speculative purposes, without working them in *good faith*. It is also intended to prevent the retention of title by a mere nominal working of the mine, and to this end attempts to provide a definition of the minimum, which shall be considered to be working the mine in good faith. Naturally, the Government could not very well say that every mine shall employ ten or fifty workmen, and discretion in the hands of the officials who are to apply the law is defensible and necessary. A third object, which will also commend itself to liberal minds, is the attempt to provide a means by which the Mexican people can regain title to the mining concessions which have in some cases been abused and to announce in all cases that the eventual title itself rests in the Mexican people.

At the same time, the equally obvious result of this decree is to make all American mining property in Mexico liable to forfeiture at the discretion of Carranza's officials. The salient fact is not in doubt. All mines will be forfeited which are not legally worked for a full ten months in the year. The conditions of legal work are to be defined in each case by the Secretary of Fomento at his discretion, without appeal. All exceptions, excuses, and variations shall be defined and determined by the Secretary of Fomento at his discretion and without appeal. Practically, the alien mine owner loses control of his own property, ceases to decide the conditions of work under which it is profitable to carry on the business. He must either continue to operate under such conditions as the Mexican Government may decide are expedient, whatever they may be, or he must forfeit his concession, his machinery, and his whole working capital. There is no recourse to the courts provided; there is no administrative appeal mentioned.

Even if we suppose this law to be administered in perfect good faith, what would be more natural than a clash of opinion between the Mexican official and the mine owner as to the number of hands which can be profitably employed, or as to the conditions of work which the decree also allows the Government to dictate? It should be sufficiently clear that American operators of Mexican mines lose control, under these conditions, of work and labor, to an extent which no employer does in this country, and they must submit to

a degree of supervision which the Government does not attempt in the United States, and which, so far as I know, no European country attempts, even Germany, and this too under a severity of penalty unexampled in civilized countries. Is it not, moreover, true that in the United States no such autocratic power in the hands of one official over a whole industry would be tolerated, and that such hampering of individual initiative under the dire penalty of losing the whole property in case of a failure to comply, would be considered nothing short of legal tyranny of the worst type? When now we reflect that the official who is to wield this extensive autocratic power will be appointed by a military chief whose Government is hardly stable, against whom revolts are still endemic, and upon whose actions and policies there can be no normal check from publicity and public opinion, does not this decree become suspicious and inimical to American interests to a very grave degree?

While we must again be cautious and not leap before we can walk safely, is it not clear that this decree may be (I did not say is) intended to be a legal method of crippling all legitimate mining business in Mexico and of forfeiting the concessions to the State? The veriest tyro is aware of the fact that conditions in Mexico in the last four years have been such that the continuous operation of mines has been difficult in the extreme, and that very few of them have been at work ten months in the year without interruption, or have employed the full complement of labor in their pay before the civil wars broke out. A temporary scarcity of labor, lasting some weeks, has happened a good many times. An inability to work the mine at full time profitably has been due more than once to the inability to export the product by railroad and to the inexpediency of piling up ingots which could be easily stolen by a marauding army. The existence of civil war, the disorganization of the transportation system, the disorganization of the currency in Mexico, the present probability of a régime of irredeemable paper depreciating from week to week, all these have made it seem expedient to many mine owners to operate only at intervals and only with part of the working force normally employed. The Government now issues, at a time when such conditions seem not unlikely to continue, a decree which practically states that unless the mine owners are able to accomplish what the very conditions in Mexico make extremely difficult

and often very unprofitable to attempt, the concession will be forfeited.

There would seem to be no end of excuses which could be used by a Government anxious to confiscate the property. The machinery breaks down in the mine; conditions of transportation make it impossible to procure a new part from the United States with promptitude; the official inspector declares that the mine was unnecessarily idle, that the breaks in the machinery should not have taken so long to repair. He declares the mine forfeited. What is to be done? He demonstrates that (under other circumstances) such repairs had frequently been effected in one-third the time. The officials in Mexico City uphold him, and the mine is lost. If water floods the mine in the Winter or Spring, there would always be room to argue whether or not due precautions had been taken by the mine owner, and whether the flood was due to his negligence or was really unforeseen. Then when labor is lacking, it would be always possible to hold that the employer had not done all he should to attract the workmen, that he had paid them too little, or abused them, or in one way or another failed in his part. If the owner pleads that civil war in the neighborhood frightened his men, who took to the hills, how much of an engagement will he be required to prove to make good his case? Suppose that, after all, his men fled at the rumor of trouble and no trouble came. He may not have been able to help it, and yet a good case can technically be made against him. There was no real war there, and yet his mine was not worked. Again, an infinite amount of argument might take place over the question of what was a cessation of work: a total suspension of all work or anything less than the legal minimum. When we count months shall we count thirty-one working days, or shall the calendar months be used? The possibilities are infinite.

The ease with which this system may become the most lucrative engine of corruption ever known in a corrupt State should be apparent. It depends for its workability in any country upon the utmost discretion of the officials, upon their high scientific intelligence, and upon their entire probity. It vests this power in the appointee of a Government which has been, under all its forms, for two or three centuries, notoriously corrupt, notoriously venal in demanding bribes of corporations, notoriously without technical training, and notoriously hostile to foreign interests. Even supposing that

Carranza has no intention whatever of really forfeiting the property and of really doing more than levy a sort of illicit taxation upon mine owners, the result may well be to create a situation extremely difficult to handle and exceedingly hard to bear. Assuming furthermore that nothing but a definitely honorable intention lies behind such legislation, what chance is there that a Government based only on makeshift, headed by a man until recently an adventurer, surrounded by a train who have attached themselves to his fortunes in probable expectation of reward, can administer with justice and operate successfully a direct control of the conditions of private enterprise which would be regarded in Europe and in the United States as an exercise of executive authority too difficult in its administration to be successful?

At the same time, the difficulty of securing redress from the United States Government will be very great. Once the decree is accepted in principle at Washington, the probability that any real redress can be secured will become small. One sovereign Government in its dealing with another must always assume, in the absence of a type of proof which rarely exists, the absolute good faith of the other's officials and grant the entire honesty of the other's legislative policies. It is most difficult for the United States Government, even granting its entire willingness to undertake the task, to recover for an American corporation a bribe which it is forced to give in order to retain its rights. How can our Secretary of State negotiate with the sovereign state of Mexico in regard to the number of laborers A ought to employ in his mine, or as to the length of time which a breakdown of machinery justifiably allowed B to suspend his operations? This sort of technical issue is commonly dealt with in the courts and is not a subject for diplomacy. Indeed, such issues between sovereign states are commonly left to the discretion of the Government making the regulation. Carranza evidently feels that the recognition by the United States Government guarantees him this legal assumption of his good faith at Washington, and will cause our Government not to question the decree, nor to proceed in cases arising under it. Without attempting to borrow trouble, have we not here in this decree of Carranza's a definitely new departure in his attitude toward Americans in Mexico, and is it not one fraught with difficulty and trouble for the future?

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